

~~~~~

2:11-CV-0262

<sup>1</sup>Plaintiff acknowledges this defendant's name is more likely to be "Smith." He says, however, the signature is illegible, and he has chosen to designate this defendant as "Amith." The Court will refer to this defendant as "Amith" for the sake of consistency.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation. The Court is of the opinion that the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court.

This Court, therefore, does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge in this case.

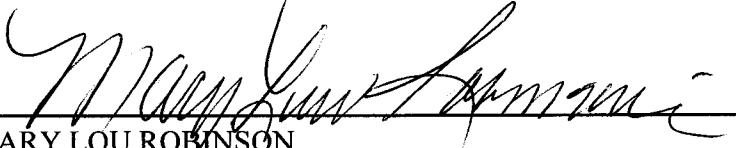
IT IS THEREFORE ORDERED that plaintiff's claims against ALL DEFENDANTS IN THEIR OFFICIAL CAPACITIES are DISMISSED WITHOUT PREJUDICE PURSUANT TO RULE 12(a), FED.R.CIV.PRO.; plaintiff's remaining claims against defendants JACKSON and CUNNINGHAM, IN THEIR INDIVIDUAL CAPACITIES, are DISMISSED WITHOUT PREJUDICE FOR FAILURE TO STATE A CLAIM ON WHICH RELIEF CAN BE GRANTED; and plaintiff's remaining claims against defendants WALLACE and AMITH IN THEIR INDIVIDUAL CAPACITIES, are DISMISSED WITH PREJUDICE AS FRIVOLOUS.

LET JUDGMENT BE ENTERED ACCORDINGLY.

The Clerk shall send a copy of this Order to plaintiff and to any attorney of record. The Clerk shall also mail copies of this order to TDCJ-Office of the General Counsel, P.O. Box 13084, Austin, TX 78711; and to the Pro Se Clerk at the U.S. District Court for the Eastern District of Texas, Tyler Division.

It is SO ORDERED.

Signed this the 15<sup>th</sup> day of October, 2012.

  
MARY LOU ROBINSON  
United States District Judge